

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 206 OF 2007

Shri Vinod Madhukar Patil] .. Petitioner

Versus

1. Secretary, Department of Food &]
Civil Supplies & 2 ors.] .. Respondents

Mr. M.A. Choudhari for the petitioner.

Mrs. S.S. Bhende, AGP, for the respondents No.1 to 3.

CORAM: S.B. MHASE, &
R.S. MOHITE, JJ.

DATED: 19TH APRIL, 2007

P.C. :

. Heard.

2. The petitioner is selected for the post of Peon since he is a disabled person. The advertisement required that the minimum disability should be 40%. The petitioner, at the time of his recruitment, had obtained a Certificate from the Civil Surgeon, Kolhapur which certified that the petitioner is suffering with a disability of the right eye which was 40% disability. Therefore, he was selected and appointment was given. However, after the appointment he was sent for medical

examination by the employer-respondent. He was initially sent to the Gokuldas Tejpal Hospital which is a Government Hospital at Mumbai. The doctors of the said hospital thereafter have sent the petitioner to the J.J. Hospital. It appears that the doctors of G.T. Hospital were not agreeing with the Certificate of the Civil Surgeon, Kolhapur. For the said reason, the Medical Board was constituted at J.J. Hospital and the petitioner was asked to attend at J.J. Hospital. The Medical Board of the Grant Medical College, J.J. Hospital examined the petitioner and found that the petitioner is suffering from disability of 30% and not 40% as certified by the Civil Surgeon. Since the Certificate issued by the Medical Board of the Grant Medical College, J.J. Hospital shows that the petitioner is suffering from disability of 30%, which is less than 40% as required under the recruitment rules and advertisement, the petitioner's services were terminated and, therefore, the petitioner approached this Court.

2. What we find is that for examining the petitioner the Board was constituted consisting of three doctors and thereafter the Members of the Board of References, Grant Medical College have issued the Certificate under the law that is the final authority

and, therefore, since there is an expert opinion on record, we have no other alternative but to accept it and we accept it. We find that the petitioner is suffering from 30% disability which is less than the required disability of 40% as advertised and, therefore, we refrain to entertain the Petition. The Petition is hereby rejected.

Sd/-
[R.S. MOHITE, J.]

Sd/-
[S.B. MHASE, J.]